

United States District court
Northern Division

Michael Philpott

Plaintiff

Case #

5 24 CV 0580

Vs

City of Stow, Stephan W MILLER,

Samantha R WIKE, Kristopher J MARUNA,

Douglas E QUINER, Erika L JOHNSON

Defendants

RECEIVED

MAR 29 2024

JUDGE LIOI

MAG JUDGE KNAPP

CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF OHIO
CLEVELAND

AFFIDAVIT - COMPLAINT

PARTIES

Plaintiff Michael Philpott, of Cleveland, Ohio file this Affidavit & Complaint under & 42 U.S.C. § 1983 against the defendants for Violations of US Constitutional violations of the 4th & 14th Amendment for UNREASONABLE seizure of me & UNREASONABLE Search & Seizure of my car under the color of Stow City Law.

Defendants are as follows

The City of Stow,

Stephan MILLER, Lieutenant of Stow Police Department, Badge #305

Samantha R WIKE, Stow PD, Badge #761

Kristopher J MARUNA, Stow PD Badge #755

Address 3760 Darrow Road Stow, OH 44224-4038

Phone: 330-689-2700

Douglas E QUINER, Summit Sheriff Lieutenant

53 University Ave. Akron, Ohio 44308

Phone: 330-643-215

Erika L JOHNSON, Las Vegas Metropolitan Police Department

400 S Martin L King, Las Vegas, NV 89106

Phone: 702-828-8313 email: E8676J@LVMPD.com

RELEVANT LAW & Police Policies

1. US 4th & 14th Amendments requires **reasonableness** as the ultimate measure of the constitutionality of a search or seizure of cars.

State v. Caponi, 12 Ohio St. 3d 302, 466 N.E.2d 551 (Ohio 1984)

"Search conducted with "investigatory intent" does not constitute "inventory search" and may not be used as pretext for warrantless evidentiary search"

State v. Rose, 118 Ohio App. 3d 864, 694 N.E.2d 156 (Ohio Ct. App. 1997)

"Sect. 14, Art. I of the Ohio Constitution and the Fourth and Fourteenth Amendments to the United States Constitution were violated" when Police searched car vents"

"A search which is conducted with an investigatory intent, and which is not conducted in the manner of an inventory search, does not constitute an "inventory search" and may not be used as a pretext to conduct a warrantless evidentiary search" State v Caponi 12 Ohio St.3d 302(1984). "Similarly, an inventory search may not be used as a ruse for a general rummaging in order to discover incriminating evidence" 495 U.S. 1 (1990)

2. "A claim for damages (or certain declaratory relief) alleging that proper extradition procedures were not followed is cognizable under § 1983" - YOUNG v. NICKOLS (2005) 4th Cir No. 04-6469
3. City of STOW Ordinance 303.08(a)(7) IMPOUNDING OF VEHICLES; REDEMPTION

(a) Police officers are authorized to provide for the removal of a vehicle under the following circumstances: (7) When any vehicle is left unattended either on public or private property due to the removal of an ill, injured or arrested operator, or due to the abandonment thereof by the operator during or immediately after pursuit by a law enforcement officer.

Stow Officers WIKE on video said to MARUNA she took "Advance Search & Seizure Class" in order to tear about car panels to look for drugs.

4. ORC 4513.601 Sets the maximum fee for Car Tow Charges at \$129 & \$17 maximum tow charge.
5. Ohio Chapter 2963 | Extradition ORC 2963.11 | Fugitives from Justice.

When, on the oath of a credible person before any judge or magistrate of this state, any person within this state is charged with the commission of any crime in any other state and with having fled from justice, or having broken the terms of the person's bail or parole or violated the conditions of a community control sanction or post-release control sanction, or whenever complaint has been made before any judge or magistrate in this state setting forth on the affidavit of any credible person in another state that a crime has been committed in the other state and that the accused has been charged in that state with the commission of the crime, and has fled from justice, or having broken the terms of bail, probation, or parole, and is believed to be in this state, the judge or magistrate shall issue a warrant directed to any peace officer, commanding the peace officer to apprehend the person named in the warrant, wherever the person may be found in this state, and to bring the person before the same or any other judge, magistrate, or court that may be available in or convenient of access to the place where the arrest may be made, to answer the charge or complaint and affidavit, and a certified copy of the sworn charge or complaint and upon which the warrant is issued shall be attached to the warrant.

6. ORC 2963.03 | Recognition of Demand for Extradition.

"No demand for the extradition of a person charged with crime in another state shall be recognized by the governor unless the demand is in writing alleging, except in cases arising under section 2963.06 of the Revised Code, that the accused was present in the demanding state at the time of the commission of the alleged crime, and that thereafter he fled from the state, and unless the demand is accompanied by:

- (A) A copy of an indictment found or by information supported by affidavit in the state having jurisdiction of the crime, or by a copy of an affidavit made before a magistrate there, together with a copy of any warrant which was issued thereupon;
- (B) A copy of a judgment of conviction or of a sentence imposed in execution thereof, together with a statement by the executive authority of the demanding

state that the person claimed has escaped from confinement or has broken the terms of his bail, probation, or parole. The indictment, information, or affidavit made before the magistrate must substantially charge the person demanded with having committed a crime under the law of that state. The copy of indictment, information, affidavit, judgment of conviction, or sentence must be authenticated by the executive authority making the demand.

ORC Section 311.07 | General powers and duties of sheriff.

(C) **The sheriff shall not execute process that is issued in a state other than this state, unless the process contains either of the following:**

7. STOW Police Policy

502.4 TOWING AT ARREST SCENES Officers shall refer to Codified Ordinances of the City of Stow Section 303.08 when towing vehicles at arrest scenes. A vehicle shall be towed whenever it is needed for the furtherance of an investigation or prosecution of the case.

607.10 ACTIONS AFTER WARRANT SERVICE

The supervisor shall ensure that all affidavits, warrants, receipts and returns, regardless of any associated cases, are filed with the issuing judge or magistrate as soon as reasonably possible, but in any event no later than any date specified on the warrant.

607.11 OUTSIDE AGENCIES AND CROSS-JURISDICTIONAL WARRANTS

"Any outside agency requesting assistance in the service of a warrant within this jurisdiction should be referred to the shift supervisor or operations director. The supervisor or operations director should review and confirm the warrant, including the warrant location, and should discuss the service with the appropriate supervisor from the other agency." "The actual service of the warrant will remain the responsibility of the agency requesting assistance"

STATEMENT OF FACTS

I, Michael Philpott state the facts & supporting evidence to be true & best of my knowledge.

8. July 1, 2023 at 6:27PM, I was stopped in a traffic stop by Stow, Ohio Police Department for no crime or infraction. 2 Hour Traffic stop & arrest was recorded on Stow Police Body cameras on Stow Police Miller, Wike & Maruna.
9. 6:52PM Stow Dispatch Megan Called Las Vegas & said “**We don’t have grounds to hold him, he’s out on a traffic stop**” Las Vegas warned Stow Dispatch that they are not following FBI procedure & it would be a “*sanction against their agency*”.
10. 7:00pm **MILLER** told on a phone call with Stow Police John Gunther. “**We are not following FBI standards**” "*I personally got in trouble because our dept was billed for out of county warrant where we held someone 2 weeks*"
11. 7:07pm **MILLER** called Summit County Lieutenant Deputy Sheriff **Quiner** & said “*They are telling us we are violating something by not doing it ourselves, like whatever*” to which the **Quiner** replied “bring him in we will deal with it”. Las Vegas warned Stow Dispatch that they are not following FBI procedure & it would be a “sanction against their agency”
12. 7:08pm Gunther/dispatch said “*It’s confirmed they (Las Vegas) are not willing to make the call, we can release*”. Miller ordered **Wike** to “stand by” & arrested me.
13. **Miller** called Gunther “*I called the county, they will take him*”, Gunther replied “*as long as they know it’s not us*”, “*when I did this before, the agency who said they will handle it but never handled it*” “*maybe our procedures need to be changed, I don’t know*”
14. 7:22pm **Wike** called my mom Mae Franklin to pick up my son Xeno & Mae confirmed she’s coming right away. 7:25pm Xeno’s is crying in the police car.
15. 7:30p to 8:30pm **Stow PD officers Wike (Badge #761), Maruna (#755)** illegally searched then seized my car. 7:37p **Maruna** & drug dog checked my car. **Maruna** & **Wike** performed the illegal search on my car until 8:30p for drugs by tearing apart my car interior panels, seat covers & wiring in violation of established Ohio & Federal case law. When the Tow Truck arrived, **Wike** and **Miller** made him wait.

16. 7:39pm Wike tells Maruna "*Not to be a know it all but I just took that advance search & seizure class*".

7:44p Maruna told to Lt Miller that "*I could have dropped off drugs*".

7:55p Wike asked dispatch to advise of any drug charges.

7:58p Wike asked "*did you guys take this front panel off?*". Dispatch advised Wike "*negative for drug charges*"

Maruna & Wike joked that I would not be able to get my car for a while & will search it more.

17. Wike & Maruna tear internal in my car a part apart in a search despite me never having a Drug Criminal Record & the drug dog Not finding drugs. (**Exhibit "1"**)

18. **Lt Miller** told me that the police dog checked my car & there was no drugs in my car's engine. **LT Miller** told me that my mom (Mae Franklin) was on her way to pick up my son (Xeno Philpott) who was also in the car during my arrest. I asked Miller & he refused to allow my car to be towed home or to be given to my mom.

Mae Franklin was not allowed to take my car July 1, 2023 because of the weekend & Stow PD wouldn't release my car until Monday according to Miller

19. 7:52pm, **Stow PD Lt Miller** drove me to Summit County Jail without proof of any warrant. **Quiner** showed **Miller** the lack of warrant upon when we arrived at jail.

20. Around 8pm, Mae Franklin picked up Xeno & his child car seat from Stow Police. Mae saw my car & the flatbed tow truck. She also saw Stow Police searching my car. Mae not was not allowed to get my car for a week.

21. 8:20Pm **Lt Deputy Sheriff Quiner** asked Stow LT Miller to called dispatch to Fax a warrant to Summit County Jail. This was to cover up for the alleged Las Vegas Warrant that was removed from the system.

22. 8:30pm Lt Miller told the **Lt Deputy Sheriff Quiner** about Las Vegas "they were pissy about that's not our job" "*we can't make arrangements, if they want to say no, we can't have any backing*"

23. 8:31pm Lt Miller said to the **Lt Deputy Sheriff Quiner** about the warrant "*they must have cleared it out right away*" another **Sheriff** asked "what happened". Lt Deputy Sheriff Quiner said "*we think Las Vegas must have taken out the warrant*

already" "The warrant didn't pop up."

24. Quiner & his Sheriffs were guessing my warrant saying "*he stole money from the hotel*", "*he stole something from the mob*". The lady Deputy said "*the mob has somebody on their pay roll within the (Las Vegas) police department*"
25. 8:31pm Miller & Quiner discussed that *Las Vegas "removed the warrant from the System"* already. LT Miller called Stow dispatch to Fax to tell them "*Print out the warrant because its already gone*".
26. 8:33pm Quiner said "Pennsylvania does nationwide pick up traffic violations" "*on misdemeanors, I don't know, I don't take them*".
27. 8:33pm Quiner said "*I'm off after today" "next shift can handle it*" laughs. Lt Miller laughs & said "*and you put it back on them*"
28. I was detained 1 week at Summit County Jail without any hearing, trial or pending cases. My Wife, Rocelyn Hechanova asked for proof of Warrant & it wasn't given.
29. July 6, 2023 "Arrest Detail" (**Exhibit "2"**) was provided by Stow PD. It lists "Arrest statue 92634-9000-Other" not clearly listing any law they followed. I emailed Stow for a copy of the warrant & they emailed me "*We do not have a copy of it with our File*". (**Exhibit "3"**)
30. July 6, 2023 Summit Sheriff Release Papers say "**Court ordered released**". Las Vegas nor Nevada State did not order any extradition (**Exhibit "4"**).
31. July 6. Mae Franklin & Rocelyn Hechanova & I went to get my car back from the Stow Impound. I noticed damage to interior panels inside my car. It was obvious panels on the passenger side was taken apart & not put back properly resulting in damage. The Stow inventory report did not report damage (**Exhibit "5"**). The Stow Tow Company Joes Auto contradicts Stow report & notes damage to the right side after Stow search (**Exhibit "6"**) Estimated Damage repair was estimated up to \$3,902.27 due to the illegal search for drugs (**Exhibit "7"**)

32. Stow PD, Joes Auto Tow Receipt to charged \$135 for towing & \$20 a day storage to, an overcharge contrary to Ohio ORC 4513.601 Limits of \$129 tow & \$17 day storage.
33. I complained to The City of Stow. STOW denied the claim their officers Miller, Wike & Maruna was *justified* for their depravation of my Civil Rights under the color of law. This denial of claims by Stow established a policy to violate not only my rights but also future rights of others (**Exhibit "8"**)
34. Stow PD Police report used an invalid LAW Arrest statue "**92634-9000-Other**" as nothing was listed that gave them power as police for unreasonable search or seizure. City of Stow allowed this because they trained their officers with advance search & seizure. Stow also allowed this to policy to continue because they did not answer my written complaint to the city.
35. The Summit Sheriff report for "Fugitive of Justice" inferred to mean ORC 2963.11 which was clearly not followed or brought to Ohio Court. Sheriff Quiner did not have a governor extradition warrant or any laws to justify detaining me for extradition while he went on vacation for the holiday.
36. JOHNSON of Las Vegas PD did not provide any legal written demand to Ohio to *justify my extradition*. When I emailed Johnson to cite the law or policy for interstate detainer & extradition, none was provided. Stow Police and Quiner did not give an explanation on why the warrant was removed the same say I was arrested. My complaints to seek answers for the illegality of my extradition arrest went unanswered by City of STOW, Summit County Sheriffs & Las Vegas Metro PD.
37. Mae Franklin had to drive Rosey around & baby sit Xeno while my wife Rosey had to miss work for a week to take care of Xeno also because I was in jail without a hearing & they were NOT allowed to get my car from Stow. Stow PD have disrupted our family & life. Furthermore, when asked for proof of warrant Mae & Rocelyn was not given any papers or information. The missed work, travel, impound fees are documented (**Exhibit "9"**)

CLAIMS

The facts show a simple drive for me and my son turned into embarrassment, harassment, stress not only for me but my wife son & mother because STOW PD falsely assumed I had drugs. Now, me & my family feel extremely paranoid around small towns because they assume I am just a drug user & dealer with 0 evidence of drug history. This has cause sleepless nights, anxiety & paranoia because Stow targeted me to destroy my life & damage my property & family.

FIRST CLAIM Officer Wike & Miller unreasonable 2-hour traffic stop & search from 6:30p to 8:30p when I didn't break any Ohio law. This unreasonable stop led to an unreasonable search & seizure of my car because of Wike, Maruna & Miller PD unconstitutional investigation for drugs with their drug dog & carelessness in removing my car panels, vents & wires. This illegal search was done because of "advance search & seizure" training giving to Stow Police which all the WIKE, MILLER & MARUNA followed. The unconstitutional search resulted in damages to my car panels & wires resulting in estimated damages to my car of **\$3,902.27**.

SECOND CLAIM Wike, Maruna & Miller unreasonable seizure of my car included a refusal to let my mom & wife pick up my car. Stow PD refused to allow my car to be towed home. My car was towed my car Infront of my mom & son under the Color of Stow City of STOW Ordinance 303.08(a)(7). Furthermore, STOW ordered my car to be towed by Joes Auto which over charged Towing fees & damages of **\$489.91**.

THIRD CLAIM - MILLER & QUINER knowingly & willingly conspired to deprive me of constitution protection against illegal arrest and seizure with attempted illegal extradition. MILLER & Quiner unreasonably detained me without bringing me to magistrate or Judge in Summit County Jail for a week as scheme to cover up for Stow illegal search & arrest which didn't find any drugs. The extradition arrest didn't follow any Ohio or Federal Law. MILLER did not follow Stow PD Mutual Aid Policy (326) that requires warrant confirmation from a supervisor or executive official in Las Vegas, NV. This mutual aid Police specifically lists aid to only Ohio Agencies which excludes interstate extradition (326.4). Quiner in furtherance of the conspiracy to deprive me of my rights, joked with Miller about passing the blame to the next shift, while Quiner goes on vacation. This constitutional violation resulted **\$2,194** IN damages due to missed work & other expenses to me & my Wife Rocelyn Hechanova.

FOURTH CLAIM - ERIKA JOHNSON E8676J@LVMPD.com of Las Vegas Police, to contacted Ohio Sheriffs for an illegal detainer July 3, 2023. July 1st, Las Vegas initially

refused to justify Stow PD arrest & removed the 10-year-old warrant from LEADS. JOHNSON is not a governor or state official authorized on extraditions asked Summit Sheriffs &/or Quiner to hold me contrary ORC Section 311.07, 18 U.S.C. § 3182 & Ohio Revised Code Chapter 2963. JOHNSON negligently called the 10-year-old warrant a felony & despite NRS stating it was a gross misdemeanor. JOHNSON detainer was contrary to the Prosecutor wishes to dismiss the case & quash the warrant. **STOW & QUINNER** blamed This constitutional detention on JOHNSON that resulted in no charges resulted in \$2,194 damages due to unconstitutional arrest without hearing.

FIFTH CLAIM - City of STOW trained 3 officers to illegally search & seize my car because they assumed I had drugs. Police of Stow illegal arrest & training was evidenced by the blank arrest report lacking any law justifying my arrest & seizure of my car. Stow Police then passed me off to the Summit County Sheriff without a legit warrant. City of STOW trained their officers in advanced Search & Seizure classes according to WIKE which include tearing apart door panels, vents & car seats to find drugs. STOW ignored & dismissed my complaint which itself sets a Policy & protection for their officers to continue with their Constitutional violations.

P R A Y E R

Pain & Suffering from arrest, prolonged detention, mental anguish for my family due to the fact that we can't enjoy simple drives without being stopped for no reason & searched and harassed by Stow PD.

Punitive damages because it was clear from Stow PD calls between LT Miller & Officer John Gunther, they have a careless disregard for "**FBI procedure or whatever**" since Stow will dump arrestees without valid charges under Ohio Law in Summit County. John Gunther of Stow PD **clearly warned LT Miller**. **Las Vegas warned Stow Police** against sanctions & removed the warrant from LEADS before I made it to the Summit County Jail

Punitive Damages because **WIKE clearly said she was trained in advance search & seizure**. This led her to tear part car panels in inventory searches despite state & federal establish constitutional protections against tearing cars apart.

The City of Stow ignored & denied my complaints stating that the Police was justified in their actions. Stow City trained several of their officers to disregard unreasonable searches & seizures with "advance search training". Furthermore, Stow PD cover up their officer's action under the color of Law to violate constitutional rights by transferring arrestees to Summit County thus limiting the paper work Stow has on baseless arrests

such as the arrestee of Stow Officer John Gunther resulting in detention of 2 weeks of an unknown person.

Compensation Damages for the cost of Towing my car I had to pay, missed work, damage to my car & time & travel for Xeno.

Other nominal & general damages are equitable & fair

STATE OF OHIO
CUYAHOGA COUNTY

SUBSCRIBED AND SWORN BEFORE ME |

On the ____ day of _____ |

_____|
Signature_____ |

Notary Public |

Michael Philpott

Michael Philpott
14819 Lotus Dr

Cleveland, OH 44128

216-867-8332

MTPOTT@yahoo.com